

One-rdg. _____
P. Hrngs. _____
Pgs. 11
Filed: 03-29-16

Sponsored by: Ferguson

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2016- 077

SPECIAL ORDINANCE NO. _____

AN ORDINANCE

AUTHORIZING the City Manager, or his designee, to enter into a cost apportionment agreement with the Missouri Highways and Transportation Commission (MHTC), to share costs associated with the improvement of both Route EE and North Airport Boulevard.

WHEREAS, the City and MHTC desire to enter into an agreement to share costs associated with completing improvements of Route EE and North Airport Boulevard; and

WHEREAS, this roadway improvement will benefit the citizens of the city and county.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows, that:

Section 1 – The City Manager, or his designee, is hereby authorized to enter into a cost apportionment agreement with the Missouri Highways and Transportation Commission, said agreement to be in substantially the form as that document attached hereto and incorporated herein by reference as "Exhibit 1."

Section 2 – This ordinance shall be in full force and effect from and after passage.

Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: Amanda R. Callaway, Assistant City Attorney

Approved for Council action: Gary Burnett, City Manager

EXPLANATION TO COUNCIL BILL NO: 2016-077

FILED: 3-29-16

ORIGINATING DEPARTMENT: Public Works & Airport

PURPOSE: Authorizing the City Manager, or his designee, to enter into a Cost Apportionment Agreement "Exhibit 1," with the Missouri Highways and Transportation Commission (MHTC), to share costs associated with improvement of both Route EE and North Airport Boulevard.

BACKGROUND INFORMATION: This Cost Apportionment Agreement shares the estimated \$1,120,000 cost for completing improvements of Route EE and North Airport Boulevard between the City (\$270,210) and MHTC (\$849,790). The improvements are generally located along Route EE from 0.24 miles northwest of the intersection of North Airport Boulevard and Route EE to 0.91 miles southeast of the intersection of North Airport Boulevard and Route EE and along North Airport Boulevard. Improvements on Route EE will consist of resurfacing and constructing shoulders with rumble strips. Improvements on North Airport Boulevard will consist of resurfacing. The City will contribute \$270,210 of which \$63,320 will be funded by the 1/4-Cent Capital Improvement Sales Tax from the Street Stabilization and Major Repaving Program and is already budgeted. The remaining City share of \$206,890 will be funded by Airport funds and will be budgeted as part of the Airport's FY 2017 annual budget.

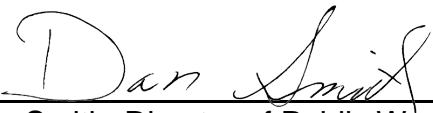
Supports the following Field Guide 2030 goal(s): Chapter 12, Transportation; Major Goal 2, Operations and Maintenance; Objective 2a, Keep streets and sidewalks and trails in good condition with an emphasis on arterial streets; Objective 2d, The City of Springfield should coordinate operations and maintenance efforts with Greene County, the State of Missouri, rail, and transit to ensure a seamless connection to the regional system.

REMARKS: Public Works and the Airport recommend approval of this Council bill.

Submitted by:


Kirk Juranas, Assistant Director of Public Works

Recommended by:


Dan Smith, Director of Public Works

Approved by:


Greg Burris, City Manager


Brian Weiler, Director of Aviation

Exhibit 1

CCO Form: DE07
Approved: 07/97 (DPP)
Revised: 03/14 (AR)
Modified:

Cost Apportionment Agreement
Route: EE
County: Greene
Job No.: J8S3058, J8S3058B

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
COST APPORTIONMENT AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Springfield, Missouri (hereinafter, "Entity").

WITNESSETH:

WHEREAS, the Commission owns and maintains a portion of Route EE in Greene County as part of the State Highway System;

WHEREAS, the parties desire the improvement or reconstruction of Route EE and North Airport Boulevard, extending generally from 0.24 miles northwest of the intersection of North Airport Boulevard and Route EE to 0.91 miles southeast of the intersection of North Airport Boulevard and Route EE; and North Airport Boulevard.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this agreement is to coordinate participation by the Entity in the cost of the Commission's public improvement for Route EE, in the County of Greene, designated as Job No. J8S3058 and J8S3058B. This public improvement will involve resurfacing Route EE and constructing shoulders with rumble strips and resurfacing North Airport Boulevard.

(2) LOCATION: The transportation improvement that is the subject of this Agreement is contemplated at the following location:

J8S3058: Route EE Improvement: Beginning at the intersection of Route EE and Route AB in Greene County, run in a generally easterly direction along Route EE to the intersection of Route EE and Route 160. Total length of improvement is 5.6 miles. Job No. J8S3058 will except out the portion of Route EE that is within the City of Springfield limits as described below.

J8S3058B: Improvement within City – Route EE: Beginning at a point 0.24 miles northwest of the intersection of North Airport Boulevard and Route EE, run in a generally southeasterly direction along existing Route EE to a point 0.91 miles southeast of the intersection of North Airport Boulevard and Route EE. Length of improvement within city is approximately 1.14 miles.

J8S3058B: Improvement within City - North Airport Boulevard Improvement: Beginning at the intersection of Route EE and North Airport Boulevard, run in a generally northerly direction, around the loop for the terminal entrance, then run in a generally southerly direction back to the intersection of Route EE and Northern Airport Boulevard. Length of Improvement is approximately 1.7 miles.

The general location of the public improvement is shown in "Exhibit A." The detailed location of the improvement will be shown on the plans prepared by the Commission for the above-designated route and project.

(3) USE OF RIGHT-OF-WAY: The Entity grants the right to use the right-of-way of public roads, streets, and alleys as necessary for construction and maintenance of said public improvements.

(4) COMMISSION REPRESENTATIVE: The Commission's District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(5) PROJECT RESPONSIBILITIES: With regard to project responsibilities under this Agreement, the parties agree to contribute as follows:

(A) The Commission will be responsible for the preparation of detailed right-of-way and construction plans and project specifications. This includes design, letting of project, and inspection of project. The plans shall be prepared in accordance with and conform to Commission requirements.

(B) The Commission will acquire right-of-way as needed for the project in accordance with Commission requirements.

(C) The Commission will be responsible for letting the work for the herein improvement, which includes advertising the project for bids and awarding the construction contract. The Commission will solicit bids for the herein improvement in accordance with plans developed by the Commission, or as the plans may from time to time be modified in order to carry out the work as contemplated.

(D) The Commission will be responsible for construction of the herein improvements, which includes administration of the construction contract and inspection of the project work. The project shall be constructed in accordance with and conform to Commission requirements.

(6) PAYMENT RESPONSIBILITIES: With regard to payment responsibilities under this Agreement, the parties agree to contribute as follows:

(A) The currently estimated cost of project J8S3058 is eight hundred forty-nine thousand, seven hundred ninety dollars (\$849,790). The currently estimated cost of the project J8S3058B is two hundred seventy thousand, two hundred ten dollars (\$270,210). The currently estimated cost of the projects combined is one million, one hundred twenty thousand dollars (\$1,120,000). The details of the estimated cost breakdown may be seen in "Exhibit B," which is incorporated herein and attached hereto. The total project cost will include preliminary engineering, right of way acquisition, utility relocation, project construction, and work inspection.

(B) Commission: The Commission will pay 100% toward the actual project costs of J8S3058, currently estimated \$849,790. The Commission shall have no financial responsibility with regard to Job Number J8S3058B.

(C) Entity: The entity will pay 100% toward the actual project costs of J8S3058B, currently estimated at \$270,210. The entity shall remit a check in the amount of \$270,210 for Job Number J8S3058B at least 12 weeks prior to the project letting. This check should be made payable to *Director of Revenue – Credit State Road Fund*.

(D) If the Entity fails to make the deposit, the Commission is under no obligation to continue with the project. The Entity agrees that all funds deposited by the Entity, pursuant to this Agreement with the Commission, may be commingled by the Commission with other similar monies deposited from other sources. Any deposit may be invested at the discretion of the Commission in such investments allowed by its Investment Policy. All interest monies shall be payable to the Road fund. If the amount deposited with the Commission shall be less than the actual obligation of the Entity for this project, the Entity, upon written notification by the Commission, shall tender the necessary monies to the Commission to completely satisfy its obligation. Upon completion of the project, any excess funds, excluding interest, shall be refunded to the Entity based on its pro rata share of the investment.

(E) The Commission is responsible for the balance of project J8S3058 in excess of \$849,790 that is within Commission owned right of way. The entity is responsible for the balance of project J8S3058B in excess of \$270,210 that is within City owned right of way. Any underruns will be shared equally by the parties in a pro rata share of their investment.

(7) ADDITIONAL FUNDING: In the event the Commission obtains additional federal, state, local, private or other funds to construct the improvement being constructed pursuant to this Agreement that are not obligated at the time of execution of this Agreement, the Commission, in its sole discretion, may consider any request by the Entity for an off-set for the deposited funds, a reduction in obligation, or a return of, a refund of, or a release of any funds deposited by the Entity with the Commission pursuant to this Agreement. In the event the Commission agrees to grant the Entity's request for a refund, the Commission, in its sole discretion, shall determine the amount and the timing of the refund. Any and all changes in the parties' financial responsibilities

resulting from the Commission's determination of the Entity's request for a refund pursuant to this provision must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Entity and the Commission.

(8) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the Entity and the Commission.

(9) ASSIGNMENT: The Entity shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(10) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The Entity shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(11) APPROVAL OF FHWA AND AVAILABILITY OF FUNDS: This Agreement is entered into subject to the approval of the Federal Highway Administration and is further subject to the availability of federal and state funds for this construction.

(12) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations or for convenience by providing the Entity with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Entity.

(13) ACCEPTED WITHIN HIGHWAY SYSTEM: Effective upon execution of this Agreement, the Commission accepts the portion of the Entity street system described in this Agreement as part of the State Highway System for the purposes of this project. However, during the construction period contemplated in this Agreement:

(A) The Commission will assume no police or traffic control functions not obligatory upon Commission immediately prior to the execution of this Agreement, and

(B) The Entity shall perform or cause to be performed normal maintenance on the project site.

(14) CITY TO MAINTAIN: Upon completion of construction of this improvement, the Entity shall accept control and maintenance of their portion of the improved city system described in this Agreement and which was temporarily accepted into the State Highway System pursuant to paragraph (13) above, and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(15) COMMISSION RIGHT OF WAY: All improvements made within the state-owned right-of-way shall become the Commission's property, and all future alterations, modifications, or maintenance thereof, will be the responsibility of the Commission, except as otherwise provided by this Agreement or a separate written agreement.

(16) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(17) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the Entity.

(18) NO INTEREST: By contributing to the cost of this project or improvement, the Entity gains no interest in the constructed roadway or improvements whatsoever. The Commission shall not be obligated to keep the constructed improvements or roadway in place if the Commission, in its sole discretion, determines removal or modification of the roadway or improvements, is in the best interests of the state highway system. In the event the Commission decides to remove the landscaping, roadway, or improvements, the Entity shall not be entitled to a refund of the funds contributed by the Entity pursuant to this Agreement.

(19) AUTHORITY TO EXECUTE: The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

(20) SECTION HEADINGS: All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(21) ENTIRE AGREEMENT: This Agreement represents the entire understanding between the parties regarding this subject and supersedes all prior written or oral communications between the parties regarding this subject.

(22) NO ADVERSE INFERENCE: This Agreement shall not be construed more strongly against one party or the other. The parties to this Agreement had equal access to, input with respect to, and influence over the provisions of this Agreement. Accordingly, no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Agreement.

(23) VOLUNTARY NATURE OF AGREEMENT: Each party to this Agreement warrants and certifies that it enters into this transaction and executes this Agreement freely and voluntarily and without being in a state of duress or under threats or coercion.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this ____ day of _____, 20__.

Executed by the Commission this ____ day of _____, 20__.

**MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION**

CITY OF SPRINGFIELD

Title _____

By _____
Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

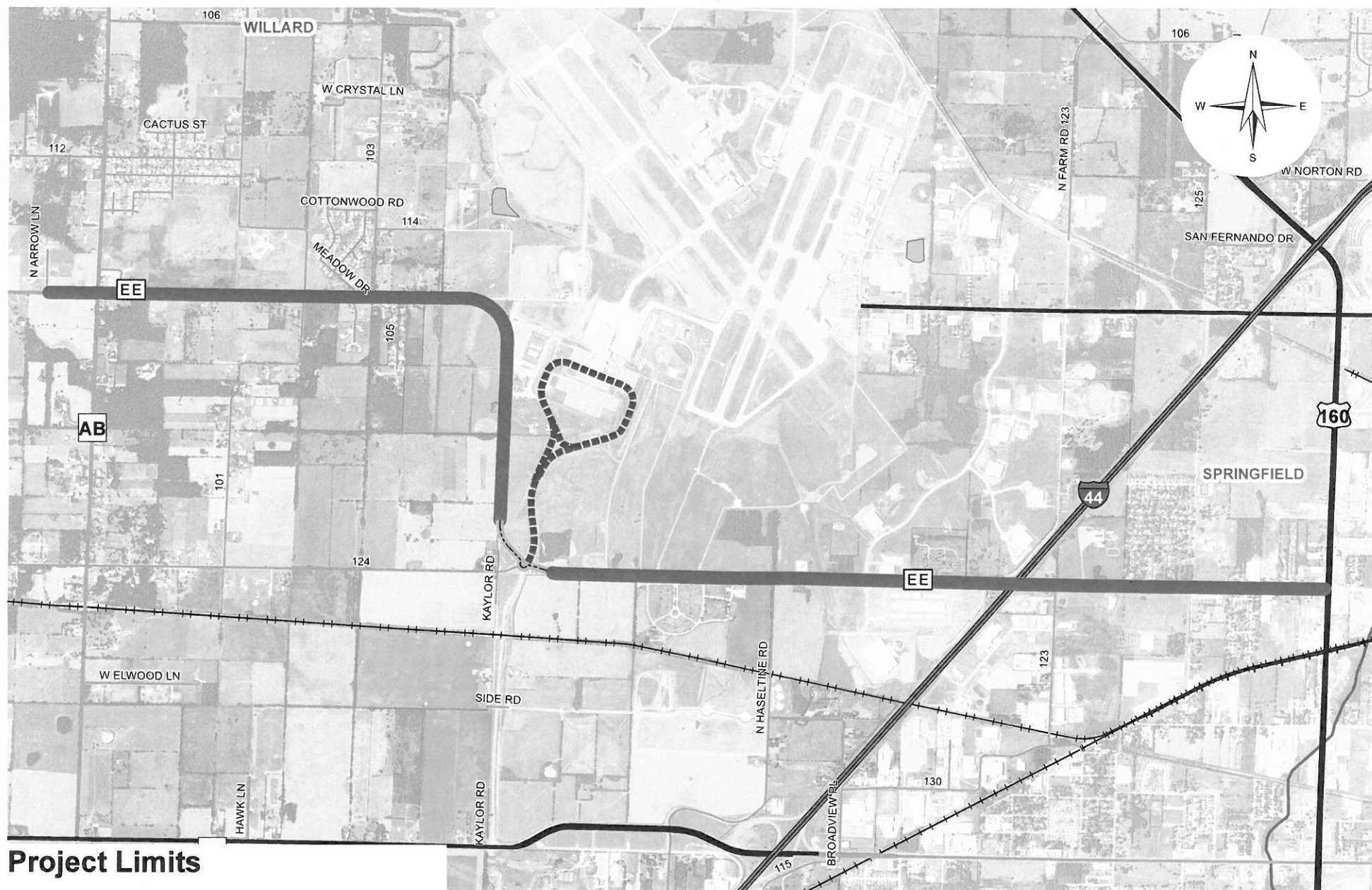
Approved as to Form:

Commission Counsel

Title: _____

Ordinance No _____

EXHIBIT "A" FIGURE - 1



Project Limits

- MHTC
- City of Springfield
- Springfield-Branson National Airport

10 of 11 0 0.5 1 1.5 2 Miles

EXHIBIT “B”

FUNDING

Project Estimate	Amount
Engineering	\$71,000
Right of Way	\$0
Utilities	\$0
Construction	\$982,000
Inspection	\$67,000
Total	\$1,120,000
Funding Responsibilities	Amount
J8S3058 - MHTC	\$849,790
J8S3058B* – City of Springfield	\$270,210
Total	\$1,120,000
*J8S3058B Responsibilities	Amount
City of Springfield	\$63,320
Springfield-Branson National Airport	\$206,890
Total	\$270,210